

INTERNAL REVENUE SERVICE
TE/GE
Director Exempt Organization
2 Cupania Circle
Monterey Park, CA 91755-7406

DEPARTMENT OF THE TREASURY
Western Area

Date: MAR 03 2000

Employer Identification Number:
[REDACTED]

DLN:
[REDACTED]

Person To Contact:
[REDACTED]
[REDACTED]

Telephone Number:
[REDACTED]
[REDACTED]

Refer Reply To:
[REDACTED]

CERTIFIED MAIL

Dear Applicant:

We have considered your application for exemption from Federal income tax
provided in section 501(c)(3) of the Internal Revenue Code

Z 401 334 708

US Postal Service

Receipt for Certified Mail

No Insurance Coverage Provided

Do not use for International Mail (See reverse)

[REDACTED]	
[REDACTED]	
[REDACTED]	
Postage	\$ 1.77
Certified Fee	\$ 1.40
Special Delivery Fee	
Registered Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom Date & Addressee's Address	\$ 1.25
TOTAL Postage & Fees	\$
Postmark or Date	

[REDACTED] submitted indicates that your organization was incorporated
in 3.01 of your By-laws states that "The specific purpose
is to enhance the communication and contact
of this alumni association. The functions are as follows:

s, conferences and other activities;

between the Alma Mater and the members of the alumni
offering the opportunity for the members of the alumni
make contributions to the Alma Mater;

PS Form 3800 April 1995

3. To promote the development of the members of the alumni association in the field of local culture, science society and technology.

According to the application, Form 1023 the activities of your organization are to raise funds to foster alumni participation and involvement of University and school activities. All activities will be initiated by officers as soon as possible.

According to information submitted in a letter dated [REDACTED] and signed by [REDACTED], president of your organization, the activities have already begun as of [REDACTED] to the present and are as follows:

- a. [REDACTED] - High tech venture capital seminar for alumni at the home of [REDACTED], president of the alumni organization, for 35 alumni.
- b. [REDACTED] - Hosting dinner for alumnus president [REDACTED] ([REDACTED]) delegation.
- c. [REDACTED] - Published special issue on "[REDACTED]". The special issue had three reports from [REDACTED] alumnus who have Significant achievements in their respective areas.
- d. [REDACTED] - Hosting dinner for alumnus and president [REDACTED]. [REDACTED] came with three other professors to the [REDACTED] to attend [REDACTED] and took the opportunity to meet With [REDACTED] alumnus.
- e. [REDACTED] -- Selected speaker from alumnus were invite ' to share their experiences and to offer free professional consultation.
- f. [REDACTED] - Made arrangements for the [REDACTED] group to visit various companies in [REDACTED] particularly high tech areas such as [REDACTED] development.
- g. [REDACTED] - Published the first semi-annual newsletter. The newsletter illustrated announcements of [REDACTED] of [REDACTED] activities planned; reports from Alma Mater in [REDACTED] and [REDACTED], and interview with senior alumni members in the [REDACTED].
- h. [REDACTED] - Co-organized a seminar on career planning. Co-sponsored the program with [REDACTED] and a spcaker from [REDACTED] alumni was the speaker.

- i. [REDACTED] - Published membership directory for [REDACTED] alumnus to strengthen the communication and for networking.
- j. [REDACTED] - University anniversary celebration; speech, raffle, lunch and cultural performance. Total of 230 people attended.
- k. [REDACTED] - [REDACTED] sent a representative to co-organize the program. A total of [REDACTED] children attended the program.
- l. [REDACTED] - Published second semi-annual newsletter. Includes reports from the president, planning [REDACTED] alumni, and financial report.
- m. [REDACTED] - Participated in [REDACTED] a total of [REDACTED] members participated in [REDACTED] for various categories.
- n. [REDACTED] - Co-organized scholar group to lecture in [REDACTED]. Co-organized with [REDACTED] to recruit research fellows from nation wide to hold [REDACTED] day lecture in [REDACTED]. [REDACTED] was responsible for recruitment and pre-evaluation of candidates.
- o. [REDACTED] - Hosted a dinner for alumnus and the [REDACTED] delegation. Organized a casual dinner (paid by each member) for members of two organizations to exchange ideas, experience, and to facilitate future collaboration plans.
- p. [REDACTED] - Published special issue of "[REDACTED] entrepreneurs." The special issue covered three [REDACTED] members who successfully launched their own business of [REDACTED] and [REDACTED] development in [REDACTED].

According to the same letter, the proposed activities for the next two years will be as follows:

- a. To publish semi-annual newsletter - [REDACTED] of each year.
- b. To publish membership directory - [REDACTED] of each year.
- c. University anniversary celebration - [REDACTED] of each year.
- d. To participate in the [REDACTED] of each year.

- e. To host presidents (██████████) and University delegations to ██████████ – schedule varies.
- f. To co-organize ██████████ community activities with other ██████████ organizations – schedule varies.
- g. To organize delegations to ██████████ for lecture and visiting – ██████████ (██████████ anniversary of the University).
- h. In the same letter (question number ██████████) the organization says they will provide scholarships to the children of the alumni.

Income from the organization shows actual income for 1998 and 1999 and proposed income for the year 2000.

	██████████	██████████	██████████
Contributions	\$ ██████████	\$ ██████████	\$ ██████████
Dues	██████████	██████████	██████████
Total	\$ ██████████	\$ ██████████	\$ ██████████

The expenses for ██████████ and ██████████ shows that most of the money was used for fund raising. In ██████████ the organization spent \$ ██████████ of the \$ ██████████ for fund raising. In ██████████ they spent \$ ██████████ for fund raising and the projection for the year ██████████ is \$ ██████████ for fund raising. When asked why most of the funds were spent on fund raising the organization stated that the purpose of the fund raising activities is to raise enough money to sustain the regular operation of the organization. Expenses are paid for publication, place/equipment rental and supplement for any activity the board voted to participate in. Copies of the newsletter are a part of the file.

There are ██████████ active members who paid membership dues. The organization hopes to increase its membership to ██████████ paid members by ██████████

ISSUE:

Does the organization qualify for exemption as an organization described in section 501(c)(3) of the Internal Revenue Code as a charitable and/or educational organization.

LAW:

Section 501(c) of the Internal Revenue Code provides for exemption in paragraph (3) for "Corporations and any community chest, fund, or foundation organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on legislation, (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of any candidate for public office."

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations (Regs) provides that in order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If any organization fails to meet either the organizational test or the operational test, it is not exempt.

Section 1.501(c)(3)-1(c)(1) of the Regs provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(c)(2) of the Regs provides that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regs provides that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than private interest. Thus, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interest such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled directly or indirectly, by such private interests.

Revenue Ruling 56-486 C.B. 1956-2 309, held that an alumni association formed at the instigation of University Officials qualified for tax exemption under section 501(c)(3). It was determined that because the association (1) is organized primarily for promoting the welfare of the University with which it is affiliated, (2) is operated as an integral part of it, and (3) is subject to the control of the University as to its policies and destination of funds, it qualified for exemption.

Revenue Ruling 60-143 C.B. 1960-1 193 holds that social and recreational activities carried on by an alumni association of a university, which are merely incidental to the basic purpose and objective of advancing the interests of the university, do not of themselves preclude such organization from tax exemption under section 501(c)(3) of the Internal Revenue Code.

In Benedict Ginsberg v. Commissioner, 46 T.C. 47 (1966), the court held that in order to qualify for exemption under Code section 501(c)(3), an organization must serve a public rather than a private benefit. Although an incidental private benefit will not destroy the qualification of an otherwise religious and educational organization, where an organization is serving both public and private interests, the private benefit must be clearly incidental to the overriding public interest.

In Better Business Bureau of Washington, D.C. v. United States, 326 U.S. 279 (1945), the Supreme court interpreted the requirement in section 501(c)(3) that an organization be "operated exclusively" by indicating that in order to fall within the claimed exemption, an organization must be devoted exclusively to exempt purposes. The Court held that the presence of a single non exempt purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly exempt purposes.

In Human Engineering Institute, TC Memo 1978-145, affd (1980, CA6) 629 F2d 1160, 90 USTC section 9600, 46 AFTR 2d 80-5479; Kenner Williams v. Ccomm., (1963 CA7) 318 F2d 632 63-2 USTC section 9519, 11 AFTR 2d 1956; and Gondia Corp. TC Memo 1982-422, all affirm that an organization is not organized and operated exclusively for one or more exempt purposes if its net earnings inures in whole or in part to the benefit of private shareholders or individuals.

See Church of Boston v. Commissioner, (1878 71 T.C. 102; Colorado State chiropractic Society, (1989) 93 T.C. 487; Best Lock Corporation, (1959) 31 T.C. 1217; St. Louis Science Fiction Limited v. Commissioner, T.C. Memo 1985-162 and Minnesota Kingsmen chess Association, Inc. v. Commissioner, T.C. Memo 1983-495. All of these

court cases held that the presence of a single non exempt purpose and substantial non 501(c)(3) activities results in loss of exemption despite the presence of other exempt purposes.

In American Campaign Academy, (1989) 92 T.C. 1053, the court also found that non incidental benefits conferred on disinterested persons may also serve private and nonpublic interests and unrelated third parties (i.e., those not within the scope of private shareholders or individuals but merely members of the general public are not excluded from the class of private persons whose receipt of benefits would cause the organization to be operated for non exempt purposes.

In Presbyterian & Reform Publishing Co. v. C.I.R., 79 T.C. 1070 (1982), the Tax Court found that the manner in which the organization conducted its activities revealed a non exempt commercial purpose that was substantial in nature. In making this determination, the court noted that whether an organization satisfies the operational test is essentially a question of fact. The court noted that where a non exempt purpose is not an expressed goal of the organization, courts have nonetheless focussed on the manner in which the organization conducts its activities, implicitly reasoning that an end can be inferred from the means chosen to attain it. If, for example, an organization's management decision replicate those of commercial enterprises, it is fair to infer that at least one purpose of the organization is commercial.

In Puritan Church of America v. Comm., (1953, Dist Col) 209 F2d 3-6, 53-2 USTC section 9601, 45 AFTR 119 cert den (1954) 347 US 975, 9898 L ED 1115, the court found that an organization is disqualified if it serves a private rather than a public interest. It must therefore establish that it is not organized or operated for the benefit of private interest such as designated individuals, the creator of the organization, or his family, shareholders, or persons controlled (directly or indirectly) by such private interest, and the accomplishment of the exempt purpose must not be accompanied by personal, private or selfish considerations.

ANALYSIS AND CONCLUSION:

All of the preceding Code sections, Income Tax Regulations, Revenue Rulings and Court cases describe the criteria under which an organization may be exempt as an organization described in section 501(c)(3) of the Internal Revenue Code, and when an organization is deemed not to be exempt under Code section 501(c)(3).

In order to qualify for exemption under Code section 501(c)(3) an organization must be both organized and operated exclusively for one or more

of the purposes specified in that section. Also, there can be no inurement of private benefit to any individual, organization, etc.

The specific purpose of [REDACTED] according to your By laws "is to enhance the communication and contacts between the members of this alumni association." All of your activities are for the benefit of your members or like alumni associations. None of the activities listed in your letter dated [REDACTED] are 501(c)(3) activities. [REDACTED] seminars for [REDACTED] members of your alumni association is not educational for the benefit of the general public, but for the benefit of your alumni members; Hosting dinners is not a 501(c)(3) activity at all; Your newsletter is not educational but geared to the interest of your members; The interview with members who have been successful is not educational within the meaning of section 501(c)(3); Hosting dinners and meeting alumni from [REDACTED] and [REDACTED] is not a 501(c)(3) activity; Your seminars on life insurance, tax filing and stock investment are for the private benefit of your members and not educational within the meaning of section 501(c)(3). Arranging for [REDACTED] members from [REDACTED] to visit various companies is private benefit to those individuals and not exempt under section 501(c)(3); Publishing membership directories is for the private benefit of your members and not exempt under section 501(c)(3); Celebrating the anniversary of a [REDACTED] is not an exempt activity but recreational and social activity for the benefit of your members; Participating in [REDACTED] is just participation on the part of your organization. It is not your organization's activity. Not enough information was given on the game to determine whether or not it is a charitable or educational activity; Free professional consultation to your members is private benefit to those members; [REDACTED] in the year [REDACTED] may or may not be educational, but not enough information was submitted to determine whether there is private benefit to those persons going to [REDACTED] tour is not a 501(c)(3) activity and no breakdown was given of how many of the children attending was attending at the behest of your organization and/or children of members; and scholarships to be given to children of your members is not a 501(c)(3) activity.

It is the position of the Internal Revenue Service, based on the information submitted, that your organization is not entitled to exemption from Federal income tax as an organization described in section 501(c)(3) of the Code inasmuch as you are not organized and operated exclusively for any of the specified purposes within that section. All of the court cases described above apply to your organization. You are not organized and operated for any of the reasons stated in the two Revenue Rulings listed above. You are organized and operated for the private benefit of your members.

If you are in agreement with this proposed determination, we request that you sign and return the enclosed agreement, Form 6018. Please note the instructions for signing on the reverse side of the form. = =

If you are not in agreement with this proposed determination, we recommend that you request a hearing with our office of Regional Director of Appeals. Your request for a hearing should include a written appeal giving the facts, law, and any other information to support your position, as explained in the enclosed Publication 892.

You will then be contacted to arrange a date for a hearing. The hearing may be held at the office of Regional Director of Appeals or, if you request, at a mutually convenient District Office. A self addressed envelope is enclosed.

If we do not hear from you within 30 days from the date of this letter, and you do not protest this proposed determination in a timely manner, it will be considered by the Internal revenue Service as a failure to exhaust available administrative remedies and will then become our final determination.

Section 7428(b)(2) of the Internal Revenue Code provides in part that a "declaratory judgement of decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

If you have any questions, please contact the person whose name appears on the heading of this letter.

Sincerely,



Steven T. Miller
Director Exempt Organizations

Enclosure:
Form 6018
Publication 892
Notice 1214

Form 6018
(Rev. August 1983)

Department of the Treasury-Internal Revenue Service
Consent to Proposed Adverse Action
(All references are to the Internal Revenue Code)

Prepare In
Duplicate

Case Number [REDACTED]	Date of Latest Determination Letter [REDACTED]
Employer Identification Number [REDACTED]	Date of Proposed Adverse Action Letter [REDACTED]

Name and Address of Organization
[REDACTED]
[REDACTED]
[REDACTED]

I consent to the proposed adverse action relative to the above organization as shown by the box(es) checked below. I understand that if Section 7428, Declaratory Judgments Relating to Status and Classification of Organizations under Section 501(c)(3), etc. applies, I have the right to protest the proposed adverse action.

NATURE OF ADVERSE ACTION

- ☒ Denial of exemption as an organization described in Internal Revenue Code Section 501(c)(3)
- ☐ Revocation of exemption, effective
- ☐ Modification of exempt status from section 501(c)() to 501(c)(), effective
- ☐ Classification as a private foundation (section 509(a)), effective
- ☐ Classification as a non-operating foundation (section 4942(j)(3)), effective
- ☐ Classification as an organization described in section 509(a)(), effective
- ☐ Classification as an organization described in section 170(b)(1)(A)(), effective

If you agree to the adverse action shown above, please sign and return this consent. You should keep a copy for your records.

If you sign this consent before you have exhausted your administrative appeal rights, you may lose your rights to a declaratory judgment under section 7428.

(Signature instructions are on the back of this form.)

Name of Organization

Signature and Title

Date

Signature and Title

Date